IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Civil Application No.4663 of 2006
In
First Appeal No.3006 of 2006

Jayprakash Narayandas Karwa. .. .. Appellant / (Orig. Deft.No.1)

v/s.

Chandanmal M. Kankariya & anr. .. ..Respondents

Ms.Smita Mane i/by Mr.P.B. Shah for Appellant.

Mr.Rahul Motkavi for Respondents.

CORAM : SMT.ROSHAN DALVI, J.

Dated : 19th June, 2007

P.C. :

1. This Appeal is filed challenging the order and decree in a Summary Suit refusing leave to defend to the Appellant and decreeing the suit. The Appellant must, therefore, deposit the entire decretal amount in Court under the provisions of Order 41 Rule 1(3) of the Code of Civil Procedure. This

Court upon exercising its discretion as per the Bombay High Court Amendment to the said provision directed deposit of a specified sum only.

2. Consequently, in the above Civil Application, an order has been passed for stay of the judgment of the trial Court upon the condition that the Appellant shall deposit a sum of Rs.1,50,000/- in the trial Court within 10 weeks from the date of that order. The order is passed on 18th October 2006. The period of 10 weeks expired on 3.1.2007. The amount is not shown to be deposited. The condition is not complied. The ad-interim relief must, therefore, come to an end by efflux of time. The relief of the stay of the judgment cannot be granted for failure to deposit of the amount ordered to be deposited. Civil Application stands dismissed.

3. The Appeal is expedited and shall be heard at the admission stage. **S.O. To 26.6.2007** .

(ROSHAN DALVI, J.)